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Department
for Environment
Food & Rural Affairs

Consultation on Repeal of sections 63 to 67 of the Control of Pollution Act 1974

Abolishing Noise Abatement Zones

December 2012



Llywodraeth Cymru
Welsh Government

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This document/publication is also available on our website at:

<http://www.defra.gov.uk/consult/open/>

Any enquiries regarding this document/publication should be sent to us at:

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Contents

Section 1: Summary	1
Summary.....	1
How to contribute	1
Confidentiality Statement	2
Compliance with the Consultation Principles.....	2
Section 2: Consultation on the Repeal of sections 63 to 67 of the Control of Pollution Act (1974)	3
Background	3
Purpose of the Consultation.....	4
Options for Consultation	4
Option 1.....	5
Option 2.....	5
Additional information.....	6
Outcome of the Consultation	6
ANNEX A: Summary of questions	7

Section 1: Summary

Summary

1.1 This consultation seeks views on the Repeal of sections 63 to 67 of the Control of Pollution Act 1974 in relation to England and Wales, which would abolish all existing Noise Abatement Zones and prevent new ones being established.

1.2 The consultation package contains the following documents:

- Consultation letter;
- The consultation document;
- List of consultees; and
- The associated Impact Assessment

1.3 The consultation will be of particular interest to:

- Local Authorities

How to contribute

1.4 The consultation will open on 7th December 2012 and last until 14th January 2013

1.5 Responses should be sent in writing or by email to the following addresses:

Repeal of s 63-67 CoPA
Noise and Nuisance Team
Area 5A Ergon House
c/o Nobel House
17 Smith Square
London
SW1P 3JR

Email: noise@defra.gsi.gov.uk (please use Repeal of s 63-67 CoPA
as the subject title)

The deadline for comments is 14:00 on 14th January 2013

Confidentiality Statement

- 1.6 In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Nobel House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses.
- 1.7 If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.
- 1.8 You should also be aware that there may be circumstances in which Defra/Welsh Government will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Compliance with the Consultation Principles

- 1.9 The consultation complies with HM Government's Consultation Principles.

Section 2: Consultation on the Repeal of sections 63 to 67 of the Control of Pollution Act (1974)

Background

- 2.1 The Government committed to removing the legislation underlying Noise Abatement Zones (NAZs) under the Red Tape Challenge Environment theme, subject to consultation. The Red Tape Challenge aims to remove unnecessary and burdensome regulation from the Statute book.
- 2.2 Sections 63 to 67 of the Control of Pollution Act 1974 give local authorities the power to implement NAZs in England, Wales and Scotland. These are areas in which current sound levels are established for classified premises and then used as reference levels for the control of noise in that area. The legislation sets out how the NAZs should be established and implemented.
- 2.3 NAZs were introduced to prevent deterioration in environmental noise levels and to achieve reductions in noise levels wherever practicable. They were intended to provide a means to control creeping background sound levels and to tackle unacceptable noise environments resulting from multiple sources of noise. However, establishing and maintaining NAZs has proved onerous for local authorities.
- 2.4 Desk-based analysis in 2011 and recent informal contact with local authorities suggests that a total of 86 NAZs have been established since the legislation was introduced nearly 40 years ago, of which only 2 remain in active use. Our initial analysis also suggested that only 5 NAZs have been revoked and the residual 79 NAZs (76 in England and 3 in Wales) remain in existence but it appears enforcement powers are not being used (for brevity, these are described in this document as 'inactive' NAZs).
- 2.5 The feedback also indicated that 'inactive' NAZs are not a significant ongoing burden for local authorities. However, they are flagged in property transaction searches, thereby potentially triggering queries to the local authority.
- 2.6 NAZs may be revoked under sections 63 of the Control of Pollution Act 1974 but no provision is made for 'inactive' NAZs. Local authorities delay formally revoking 'inactive' NAZs by the costs and personnel resource it would absorb.
- 2.7 This initial analysis suggests that this legislation is little used, is not providing a significant benefit in England and Wales, may be causing uncertainty for

businesses in ‘inactive’ NAZs and there would be benefits for local authorities in repealing it.

- 2.8 In reviewing the utility of NAZs, Defra and Welsh Government considered potential new uses for them for example their use to support the delivery of other, separate, requirements to protect quiet areas (spaces in urban areas offering access to areas of relative quiet). However, due to the potentially onerous way that NAZs are required to be set up and monitored, along with other issues, such as requirements for changing primary legislation, it was felt there was no clear merit in pursuing this further.
- 2.9 Repealing NAZs via primary legislation presents a resource-efficient way of removing the burden on local authorities of individually revoking their NAZs.
- 2.10 We are consulting to ensure no significant unexpected negative consequences would result from repeal in England and Wales and, where possible, confirm our initial evidence.
- 2.11 It is thought that no NAZs exist in Scotland. The Scottish Government may review this legislation separately as part of its Better Regulation Agenda and therefore Scotland is outside the scope of this consultation.

Purpose of the Consultation

- 2.12 Defra and Welsh Government propose to repeal sections 63 to 67 of the Control of Pollution Act 1974 in relation to England and Wales. Repeal would abolish existing NAZs and prevent new ones being established. This consultation is to confirm that repealing the legislation surrounding NAZs would not cause any unforeseen negative impacts.

Options for Consultation

- 2.13 The options for the consultation are:

Option 1: Retain sections 63 to 67 of the Control of Pollution Act 1974 (i.e. make no change)

Option 2: Repeal sections 63 to 67 of the Control of Pollution Act 1974 for England and Wales (i.e. abolish Noise Abatement Zones)

- 2.14 Due to the potential costs savings for local authorities and general support for repeal when local authorities were informally contacted, Option 2 is the preferred option of the consultation.

2.15 Both options are discussed in greater detail below. A summary of the questions included in the text can be found in Annex A

Option 1

2.16: Retain sections 63 to 67 of the Control of Pollution Act 1974 (i.e. make no change)

- No change would mean existing NAZs remain whether active or not. Local authorities would continue to have a range of responsibilities and powers in relation to these NAZs. They would also be responsible for answering queries on NAZs that are flagged in property searches.
- Local authorities would face the costs of revoking their 'inactive' NAZs at some stage.
- Additional costs and uncertainty may also be caused during property transactions when 'inactive' NAZs are flagged in legal searches. There may also be uncertainty for businesses in 'inactive' NAZs for example whether they can make changes to their business that would breach the noise level in the Noise Level Register or whether use of enforcement powers in 'inactive' NAZ may resume at some stage. This uncertainty could potentially be a barrier to growth.
- New NAZs could be established (although this appears unlikely as none are believed to have been formed in the last 10 years).

Q1A: Are you supportive of Option 1? Why?

Q1B: Do you agree with the costs and benefits described in Option 1 in the Impact Assessment? If not, why?

Option 2

2.17: Repeal sections 63 to 67 of the Control of Pollution Act 1974 for England and Wales (i.e. abolish Noise Abatement Zones)

- Repeal would remove 'inactive' NAZs and also the remaining active NAZs
- From our initial analysis, just two businesses are expected to be affected by this option. One may lose the clarity of a required noise level that has been agreed with the local authority for many years and the other may face increased noise survey costs for future planning applications. We understand that there are alternative processes available, such as planning conditions, that would restore the benefits for this business.
- No new NAZs could be established, which may reduce flexibility for local authorities in managing noise problems. However, the fact that the use of NAZs has been very

limited so far suggests that local authorities no longer consider NAZs an efficient or effective tool for this purpose.

- We estimate that 79 local authorities could benefit from this option, by saving them the cost of revoking their individual ‘inactive’ NAZs. Costs of revoking the 2 NAZs in active use would also be saved.
- There would be cost savings for local authorities, who no longer need to manage their NAZs, including costs of responding to property transaction search queries.
- This option may reduce confusion and provide greater clarity for businesses as ‘inactive’ NAZs would no longer exist and there may be savings as property transaction search queries are avoided.

Q2A: Do you support Option 2? Why?

Q2B: Do you agree with the monetised costs and benefits for Option 2 in the Impact Assessment? If not, what do you think the correct figures are and why?

Additional information

2.17 The following information would be useful for supplementing the Impact Assessment:

Q3A: Do you represent a local authority?

Q3B (for local authorities): How many NAZs do you have in your area and how are they being used (in active use, enforcement powers not being used or revoked)?

Q3C (for local authorities): approximately how many classified premises are still operational and covered by each NAZ in your area?

Q3D In your opinion, are there any other costs or benefits (including non-monetised ones) that have not been taken account of for instance for classes of premises or residents? Do these apply to NAZs in active use or where enforcement powers are not being used ('inactive' NAZs) or both?

Outcome of the Consultation

2.18 The consultation responses will be evaluated and a summary of the responses received will be published by April 2013. Based on the responses the legislation may be repealed or retained.

ANNEX A: Summary of questions

Q1A: Are you supportive of Option 1? Why?

Q1B: Do you agree with the costs and benefits described in Option 1 in the Impact Assessment? If not, why?

Q2A: Do you support Option 2? Why?

Q2B: Do you agree with the monetised and non-monetised costs and benefits for Option 2 in the Impact Assessment? If not, what do you think the correct figures are and why?

Q3A: Do you represent a local authority?

Q3B (for local authorities): How many NAZs do you have in your area and how are they being used (in active use, enforcement powers not being used or revoked)?

Q3C (for local authorities): approximately how many classified premises are still operational and covered by each NAZ in your area?

Q3D In your opinion, are there any other costs or benefits that have not been taken account of for instance for classes of premises or residents? Do these apply to NAZs in active use or where enforcement powers are not being used or both?